

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Green Hill Church of Christ)	
	District 1, Map 53, Control Map 53,)	
	Parcel 73)	Wilson County
	<i>Claim of Exemption</i>)	

INITIAL DECISION AND ORDER

Statement of the Case

This is an appeal from the denial of an application for exemption of the subject property from ad valorem taxation. The application was filed with the State Board of Equalization (the "State Board") on November 18, 2002. By letter dated November 1, 2006, State Board staff attorney Mark Aaron notified the applicant of the denial of the exemption application on the grounds that:

"This is to inform you that your application for property tax exemption is denied due to failure to timely respond to my 8/1/2006 request for more information (copy enclosed),

Green Hill Church of Christ, the applicant, timely appealed the staff attorney's initial determination to the State Board on December 19, 2006, pursuant to T. C. A. § 67-5-212(b)(2). The undersigned administrative judge conducted a hearing of this matter on April 23, 2007, in Nashville, Tennessee. Elders Houston Stanton and Robert Adkins represented the interest of Green Hill Church of Christ. Mr. Jimmie Locke, the Wilson County Assessor of Property and Mr. Larry Joyner, Deputy Assessor, also from Wilson County Office was present.

Findings of Fact and Conclusions of Law

On February 5, 1972 Green Hill Church of Christ purchased the improved property commonly known as 11706 Lebanon Road, in Mt. Juliet, Wilson County, Tennessee from Charles Thorne, Mrs. Ruth Thorne Snodgrass, individually and as Executrix of the Estate of Mrs. Julia I. Hackney, David Lipscomb Foundation, by James R. Byers, Chairman of the Executive Committee and Athens Clay Pullias, Secretary-Treasurer, and The Tennessee Orphan Home, by R.C. Adams, President. As previously stated in November of 2002 an application for exemption was submitted to the State Board of Equalization, on August 24, 2005 the Assessors Check List was received in the "Board" office, On December 14, 2005, Emily Bennett, Staff Attorney for

the “Board” requested additional information from Bill Speight, Elder of the Church¹. The file was subsequently assigned to the present Staff Attorney, Mr. Aaron. On January 18, 2006, Mr. Aaron again wrote to Mr. Speight requesting the information giving him an additional twenty (20) days to respond. On February 27, 2006, Mr. Aaron sent a letter denying the application for failure to respond. On May 23, 2006, Mr. Aaron received a call from Mr. Gregory Gill of Rochelle, McCulloch & Aulds, requesting Reconsideration, by letter of May 24, 2006, Mr. Aaron granted the request and attached a copy of the December 14, 2005 letter giving the Church thirty (30) days to respond. On July 6, 2006, Mr. Gill responded to Mr. Aaron answering his questions and submitting the information. On August 1, 2006, Mr. Aaron asked Mr. Gill for additional information regarding a ‘tenant’ the Church had on the property; Mr. Gill had thirty (30) days to respond. On November 1, 2006, Mr. Aaron notified Mr. Gill that the application was denied for failure to respond to the request for additional information.

Mr. Locke indicated that the County has no problem with the Church being granted full exemption; unfortunately, the law is quite clear on State’s statutory guidelines.

Article II, section 28 of the Tennessee Constitution authorizes, but does not require, the legislature to exempt from taxation property which is “used for purposes purely religious, charitable, scientific, literary, or educational.” Under this authority, the General Assembly has decreed that:

There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific or nonprofit educational institution which is **occupied and used by such institution or its officers** purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists... [Emphasis added.] T. C. A. § 67-5-212(a)(1)(A).

In this state, property tax exemptions are liberally construed in favor of religious, charitable, scientific, and educational institutions. *See, e.g., Christian Home for the Aged, Inc. v. Assessment Appeals Commission*, 790 S.W.2d 288, 291 (Tenn. Ct. App. 1990). Nevertheless, as the party appealing from the initial determination on its application for exemption, Green Hill Church of Christ has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(2).

¹Ms. Bennett gave the Church twenty (20) days to respond to the request.

Elder Stanton testified that they (the Church) had never paid taxes on the property until two (2) years ago² and he believes that it is because "someone turned them in that they were renting the property". It appears that for the last two (2) years the property was occupied by the Wilson County Community Help Center (Help Center), a non-profit organization that paid no rent. The Help Center vacated the property in August of 2006³, since that time Elder Stanton indicated that it has always been used for benevolent purposes associated with the Church. Currently they (the Church) are allowing a man to live there free of charge because he has no money and no where else to live. The Church intends to tear the structure down and currently use the property for additional parking for members of the Church, presently they have graded the area and put gravel on it and intend to pave it in the near future.

As Administrative Judge Pete Loesch noted in New Fellowship Ministries, (Hawkins County, Initial Decision and Order, October 13, 2006):

NFM undoubtedly qualifies as a religious institution under T. C. A. § 67-5-212. *Yet, based on the factual situation at the time, the staff attorney's ruling on the application was clearly correct.* Arguably an applicant for exemption should not be allowed to submit new or additional information in an appeal from an initial determination. For better or worse, however, the Assessment Appeals Commission appointed by the State Board pursuant to T. C. A. § 67-5-1502 has followed the more lenient policy that "until an application is finally determined, the Board. . .should consider all pertinent evidence relative to the application at hand." (Emphasis supplied) Beth Shalom East Memphis Synagogue, Inc. (Shelby County, final Decision and Order, May 16, 2001). p3

The testimony at the hearing establishes that the property is currently being used for two purposes, the structure as a home for an individual who is down on his luck and has no where else to go, the surrounding property for a make shift parking lot for members of the Green Hill Church of Christ.

The Supreme Court has held in City of Nashville v. State Board of Equalization:

The State Board held that these parts of the properties so used for other purposes (parking lots, cafeteria, and snack bar) were exempt from taxation: that they were being used "*either purely and exclusively for religious purposes or for purposes so close thereto as to come within the exemption provided by the statute*" (italics ours). 360 S.W.2d 458, Tenn. 1962

²It appears that Mr. Locke's predecessor had a habit of exempting property (taking it off the tax rolls) under his own volition.

³Date entered on letter from Richard Kendall and Robert Adkins as the date the Wilson County Help Center vacated the property.

This case also contains language that is the barrier to *carte blanche* exemptions in this State:

It is a fundamental rule that all property shall be taxed and bear its just share of the cost of government, and no property shall escape this common burden, unless it has been duly exempted by organic or statute law; and that one claiming such exemption has the burden of showing {210 Tenn. 595} his right to it. 2 Cooley on Taxation (4th Ed.) sec. 672; 51 Am.Jur., Taxation, sec. 524; American Bemberg Corp. v. Elizabethton, 180 Tenn. 373, 378, 175 S.W.2d 535; American Nat. B. & T. Co. of Chatta. v. MacFarland, 209 Tenn. 263, 352 S.W.2d 441, 443, 444.

"Taxes are the life blood of civil government. The right of taxation is an attribute of sovereignty. It is inherent in the state, and essential to the perpetuity of its institutions; consequently he who claims exemption must justify his claim by the clearest grant of organic or statute law." Knoxville & O. R. Co. v. Harris, 99 Tenn. 684, 693, 43 S.W. 115, 53 L.R.A. 921.

It is the policy of the state, and but justice between its citizens, that all property shall be taxed, and that no property shall escape this common burden, **unless it comes fairly within the exemption; and it is incumbent on the plaintiff [claiming exemption for its property] to show that it comes within the exempting clauses of the constitution and statute.** (A.M. E. Church, South v. Hinton (1892), 92 Tenn. 188, 21 S.W. 321, 19 L.R.A. 289). State ex rel v. Waggoner, 162 Tenn. 172, 176, 35 S.W.2d 389.

The structure does not qualify for exemption as it is clearly not being used as a parsonage by a full time minister of the Church as was established in Blackwood Bros. Evangelistic Ass'n v. State Board of Equalization, 614 S.W.2d 364, 1980 Tenn. App. LEXIS 420 (Tenn. Ct. App. 1980) nor is it currently occupied by a non-profit organization, Christian Home for Aged, Inc. v. Tennessee Assessment Appeals Commission 790 S.W.2d 288, 1990 Tenn. App. LEXIS 83 (Tenn. Ct. App. 1990). The appellant has not sustained their burden in this cause as it relates to the structure/improvement.

Order

It is, therefore, ORDERED that the initial determination of the State Board's Staff Attorney is modified as the appellants as it relates to the surrounding land that is used as a parking lot; the structure/improvement and supporting land is not exempt. The exemption shall be effective as of August of 2006. The Wilson County Assessor of Property shall determine the amount of land that supports the non-exempt structure and pro-rate the land value accordingly.

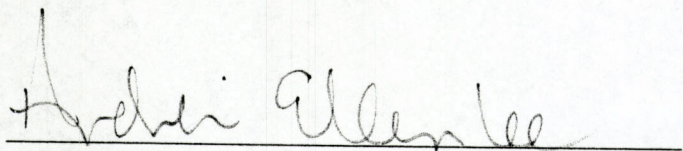
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State

Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 17th day of May, 2007.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Elder Huston Stanton, Green Hill Church of Christ
Jimmie Locke, Wilson County Assessor of Property

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